

News Release



**U.S. Department of Labor
Office of Public Affairs
Kansas City
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Contact: Sharon Morrissey
Phone: (202) 693-8664**

Labor Department Obtains Restitution for Participants Of Kansas Company for Misuse of Simple IRA Plan Assets

KANSAS CITY—The U.S. Department of Labor obtained a consent order on April 29, 2003 ordering the president and owner of Netsource, Inc. of Olathe, Kan. and the fiduciary of the company's Simple IRA Plan to restore \$13,661.38 to the plan. The company was a computer consulting company that developed software for clients.

Eric Johnson, the plan fiduciary, also agreed to pay 20 percent of the amount of the money restored as a civil penalty assessed by the federal government for violating the prohibited transaction provisions of the Employee Retirement Income Security Act (ERISA).

The department simultaneously filed a lawsuit on April 24 in federal district court in Kansas City, Kan., alleging that Eric Johnson withheld \$4,993.29 from employees' paychecks from January 2000 through April 2001 and retained pension contributions in the company's general fund. The suit also alleged that Johnson failed to take steps to collect \$7,513.75 in matching employer contributions owed to the plan for the same time period.

Gregory Egan, director of the department's Kansas City regional office of the Employee Benefits Security Administration (EBSA), which investigated the case, said, "It was necessary to take this action to recoup the money paid into the retirement plan by workers as well as matching contributions promised by the employer."

Egan noted that employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the Department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole, but allows them to avoid EBSA enforcement actions and civil penalties, as well as excise taxes. For more information about the VFCP see www.dol.gov/ebsa.

Employers and workers can contact the Kansas City regional office of the Employee Benefits Security Administration at (816) 426-5131 or EBSA's toll free number, 1-866-444-EBSA (3272), for help with any problems relating to private-sector pension and health plans.

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(Chao v. Johnson)
Civil Action No. 03-cv-2205